

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES,

Plaintiff,

v.

RONALD J. O'MALLEY,

Defendant.

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Hon. Dennis M. Cavanaugh

ORDER

Crim. No. 10-578(1) (DMC)

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon the Motion of Defendant Ronald J. O'Malley ("Defendant") for Bail Pending Appeal. After considering the parties' submissions and based upon the following;

WHEREAS Defendant pled guilty to one count of Conspiracy to Commit Wire Fraud on August 23, 2011, and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of twenty four months;

WHEREAS Defendant has appealed this judgment on February 29, 2012, and has moved for Bail Pending Appeal;


WHEREAS pursuant to 18 U.S.C. § 3143(b) there is a presumption in favor of post-conviction detention during the pendency of an appeal, which may only be overcome upon a showing by clear and convincing evidence that Defendant is not likely to flee or pose a danger to safety of any person or the community if released, and upon a showing that the appeal is not for the purpose of delay and raises a

substantial question of law or fact likely to result in a sentence that does not include a term of imprisonment or in a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process;

WHEREAS none of Defendant's arguments, including that this Court incorrectly calculated the loss amount at issue, that this Court erred in finding an "abuse of trust" enhancement, and that this Court erred in finding a four-level enhancement based on Defendant's aggravating role, would result in a sentence which would not exceed the expected duration of his appeal;

IT IS on this 12 day of March, 2012;

ORDERED that Defendant's Motion for Bail Pending Appeal is **denied**.


Dennis M. Cavanaugh, U.S.D.J.

Original: Clerk
cc: All Counsel of Record
File